

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT NASHVILLE

Assigned on Briefs March 2, 2010

**STATE OF TENNESSEE v. JOSEPH L. CHADWICK**

**Direct Appeal from the Circuit Court for Hickman County**  
**No. 08-5139 Timothy L. Easter, Judge**

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**No. M2009-01205-CCA-R3-CD - Filed March 16, 2010**

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The defendant, Joseph L. Chadwick, a correctional employee with the Hickman County Sheriff's Department, was charged with having sexual contact with an inmate. Thereafter, the defendant filed a motion to suppress his statement to Detective Scott Smith in which he admitted being inappropriately involved with an inmate. The trial court granted the defendant's motion and because the suppression of the defendant's statement left the State with insufficient evidence to proceed to trial, the trial court dismissed the indictment. The State appeals the trial court's grant of the defendant's motion to suppress. After review, we affirm the judgment of the trial court.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed**

ALAN E. GLENN, J., delivered the opinion of the Court, in which JOSEPH M. TIPTON, P.J., and JOHN EVERETT WILLIAMS, J., joined.

Robert E. Cooper, Jr., Attorney General and Reporter; Benjamin A. Ball, Assistant Attorney General; Kim R. Helper, District Attorney General; and Michael J. Fahey, Assistant District Attorney General, for the appellant, State of Tennessee.

William C. Barnes, Jr., Columbia, Tennessee, for the appellee, Joseph L. Chadwick.

**OPINION**

**FACTS**

At the suppression hearing, Detective Scott Smith with the Hickman County Sheriff's Department testified that he talked to the defendant on October 7, 2008, because "Captain Wasden [asked him] to initiate an internal investigation regarding allegations that [the defendant] was having a sexual relationship with an inmate." Detective Smith said that the

defendant was a fellow employee of the sheriff's department and in charge of the commissary and visitation. Detective Smith approached the defendant at the correctional department and asked "if he wanted to talk about this investigation, this matter at hand."

Detective Smith testified that the defendant agreed, and the two walked to Detective Smith's office next door to the jail. Detective Smith did not restrain the defendant in any way during the half-hour conversation. Detective Smith sat at one desk and the defendant at another, and they discussed the allegations. Detective Smith noted that the defendant was on duty at the time, but it was after hours so the conversation would be "as low key as possible." He said that the defendant had an office in the same building as his, and the defendant was not under his supervision as an officer.

Detective Smith testified that he started the conversation by informing the defendant of the information he had concerning the investigation and saying that he wanted to get the defendant's side of the story. He told the defendant that he was not sure if the sheriff was going to handle the matter in-house or if charges were going to be brought. Detective Smith explained to the defendant that he would be returning to work following their conversation. Detective Smith did not read the defendant his Miranda rights, and he described the conversation as "amicable."

Detective Smith testified that the defendant initially "made a weak effort" to deny the allegation. However, the detective "gave him a sideways look" and advised the defendant "concerning the facts at hand [that] he needed to tell the truth, and he subsequently did." Asked why he did not end the interview when the defendant denied the allegations, Detective Smith said, "Because I had evidence otherwise to indicate that he had." Detective Smith said that he may have informed the defendant that he had statements from inmates and love notes found in an inmate's cell, after which the defendant ceased his denial. Detective Smith asked the defendant to give a written statement, and then the defendant returned to work. Detective Smith acknowledged that the defendant was a suspect, not a routine witness.

The defendant testified that the contents of the statement he gave were not true. The defendant said that he was "ordered" to go to Detective Smith's office and, when he denied the allegations, "[Detective Smith] went on and said . . . we had to get to the bottom of this thing." The defendant recalled that Detective Smith told him that the sheriff did not want to prosecute and that, because the defendant was going on vacation the next day, "[they] needed to end this before . . . [he] left."

The defendant stated that he asked Detective Smith what he wanted him to say and then wrote those words down in his statement. The defendant said that he considered

Detective Smith his superior even though they did not work in the same part of the jail. The defendant maintained that the reason he switched from denying any involvement to giving the written statement of admission was because Detective Smith told him that “the sheriff didn’t want to prosecute this thing and if [he] would write something up, that would be the end of it.” The defendant said that he was never told that he was free to stop the conversation and leave.

On cross-examination, the defendant stated that Correctional Officer Plotzer informed him that “[he] was ordered to go to the detective’s office.” He admitted that Officer Plotzer was not his superior. The defendant stated that he went straight to Detective Smith’s office, and he was not escorted by Detective Smith or any other officer. The defendant admitted that he was never told he was going to be charged with an offense or that there was enough evidence to arrest him. The defendant acknowledged that complaints sometimes arise within the sheriff’s department or jail, and this investigation would have been no different than the investigation into those complaints. The defendant admitted that he was never told he could not leave, he was not yelled at or threatened with arrest, and his movement was not limited. He said that the conversation was amicable and lasted no more than thirty minutes, after which he went back to work and finished his shift.

At the conclusion of the hearing, the trial court granted the defendant’s motion to suppress, and the charge against him was later dismissed.

### **ANALYSIS**

On appeal, the State argues that the trial court erred in granting the defendant’s motion to suppress because the defendant was not in custody when he gave the statement and thus no Miranda warnings were necessary.

When this court reviews a trial court’s ruling on a motion to suppress evidence, “[q]uestions of credibility of the witnesses, the weight and value of the evidence, and resolution of conflicts in the evidence are matters entrusted to the trial judge as the trier of fact.” State v. Odom, 928 S.W.2d 18, 23 (Tenn. 1996). The party prevailing at the suppression hearing is afforded the “strongest legitimate view of the evidence and all reasonable and legitimate inferences that may be drawn from that evidence.” State v. Keith, 978 S.W.2d 861, 864 (Tenn. 1998). The findings of a trial court in a suppression hearing are upheld unless the evidence preponderates against those findings. See id. However, the application of the law to the facts found by the trial court is a question of law and is reviewed *de novo*. State v. Walton, 41 S.W.3d 75, 81 (Tenn. 2001); State v. Crutcher, 989 S.W.2d 295, 299 (Tenn. 1999); State v. Yeargan, 958 S.W.2d 626, 629 (Tenn. 1997).

The Fifth Amendment to the United States Constitution provides that “[n]o person . . . shall be compelled in any criminal case to be a witness against himself.” U.S. Const. amend. V. The corresponding provision of the Tennessee Constitution states “[t]hat in all criminal prosecutions, the accused . . . shall not be compelled to give evidence against himself.” Tenn. Const. art. I, § 9. Thus, to be admissible at trial, a confession made while under custodial interrogation must be shown to have been freely and voluntarily given, after the defendant’s knowing waiver of his constitutional right to remain silent and to have an attorney present during questioning. See Miranda v. Arizona, 384 U.S. 436, 444, 86 S. Ct. 1602, 1612 (1966).

Our supreme court has held that an individual is “in custody” if

under the totality of the circumstances, a reasonable person in the suspect’s position would consider himself or herself deprived of freedom of movement to a degree associated with a formal arrest. The test is objective from the viewpoint of the suspect, and the unarticulated, subjective view of law enforcement officials that the individual being questioned is or is not a suspect does not bear upon the question.

State v. Anderson, 937 S.W.2d 851, 852 (Tenn. 1996). The Anderson court outlined a non-exhaustive list of factors for the trial court to consider in evaluating whether the totality of the circumstances indicated that a defendant was in custody for purposes of Miranda. The factors include

the time and location of the interrogation; the duration and character of the questioning; the officer’s tone of voice and general demeanor; the suspect’s method of transportation to the place of questioning; the number of police officers present; any limitation on movement or other form of restraint imposed on the suspect during the interrogation; any interactions between the officer and the suspect, including the words spoken by the officer to the suspect, and the suspect’s verbal or nonverbal responses; the extent to which the suspect is confronted with the law enforcement officer’s suspicions of guilt or evidence of guilt; and finally, the extent to which the suspect is made aware that he or she is free to refrain from answering questions or to end the interview at will.

Id. at 855 (citations omitted); see State v. Dailey, 273 S.W.3d 94, 102 (Tenn. 2009).

In granting the defendant’s motion to suppress, the trial court found that the evidence established that the defendant was ordered to go to Detective Smith’s office and that even

if the initial discussion indicated that the questioning was an internal investigation, “when the detective gave the defendant what he called ‘a sideways look,’ it turned from that to more of accusatory aimed at convincing the defendant that the police had sufficient evidence to convict him.” The court noted that the defendant was the target of the investigation, and “the effect of the investigation . . . was just that, interrogation and accusatory.” The court observed that the defendant was led to believe that it was an internal investigation that would go no further, and he was never informed that he was free to leave and did not have to answer the questions. The court concluded:

[B]ased upon the totality of the circumstances, particularly given the fact that this defendant was the target of the investigation and that the questioning was done in an accusatory manner, I find that for use in a criminal prosecution it would be inappropriate to allow this statement, absent a Miranda warning, which was clearly not given here. Based upon the authority of the Daly<sup>1</sup> case and all the cases that it cites, the court finds that the totality of the circumstances would have required Miranda warnings be given in this case[.]

Implicit in the trial court’s ruling is the finding that the defendant was in custody for purposes of Miranda.

In looking at the Anderson factors as recently applied in Dailey, we conclude that the evidence does not preponderate against the trial court’s finding that the defendant gave a statement in a custodial setting without the benefit of Miranda, and therefore, the statement should be suppressed. In the light most favorable to the defendant, the party prevailing at the suppression hearing, the evidence shows that the defendant was ordered to report to a detective whom he considered his superior to discuss the allegations against him. The defendant initially denied the allegations but, after the detective gave him a “sideways look” and informed him of the evidence against him, admitted his involvement. The defendant was assured that the sheriff did not want to prosecute, which led to his giving the statement. The defendant was never told that he was free to end the conversation and leave.

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<sup>1</sup> In its written order granting the motion to suppress, the trial court provided the case name and citation of State v. Dailey, 235 S.W.3d 31 (Tenn. 2007). However, no Tennessee case corresponds with that citation; therefore, we presume there was a clerical error and the trial court intended to cite State v. Dailey, 235 S.W.3d 131 (Tenn. 2007). Even so, the 2007 Dailey case only addressed the propriety of this court’s dismissal of a certified question of law and remanded for this court to consider the merits of whether the defendant was subjected to custodial interrogation. Therefore, it appears that the trial court intended to cite State v. Dailey, 273 S.W.3d 94 (Tenn. 2009), in which the Tennessee Supreme Court addressed whether the defendant was in custody at the time of his un-Mirandized confession and the trial court’s denial of his motion to suppress.

### **CONCLUSION**

Based on the foregoing authorities and reasoning, we affirm the judgment of the trial court.

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ALAN E. GLENN, JUDGE